

**[4310-MR-W]**

**DEPARTMENT OF THE INTERIOR**

**Minerals Management Service**

**Agency Information Collection Activities: Submitted for Office of Management and Budget (OMB) Review; Comment Request**

**AGENCY:** Minerals Management Service (MMS), Interior.

**ACTION:** Notice of an extension of a currently approved information collection (OMB Control Number 1010-0104).

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**SUMMARY:** To comply with the Paperwork Reduction Act of 1995 (PRA), we are notifying the public that we have submitted to OMB an information collection request (ICR) to renew approval of the paperwork requirements in the regulations under 30 CFR Part 206, Subpart E—Indian Gas. This notice also provides the public a second opportunity to comment on the paperwork burden of these regulatory requirements. We changed the title of this ICR to clarify the regulatory language we are covering under 30 CFR Part 206, Subpart E. The previous title of this ICR was “Accounting for Comparison (Dual Accounting) (Form MMS-4410).” The new title of this ICR is “30 CFR Part 206, Subpart E—Indian Gas, §§ 206.172, 206.173, and 206.176 (Form MMS-4410, Accounting for Comparison [Dual Accounting]).”

**DATES:** Submit written comments on or before (INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER).

**ADDRESSES:** Submit written comments by either FAX (202) 395-6566 or e-mail ([OIRA\\_Docket@omb.eop.gov](mailto:OIRA_Docket@omb.eop.gov)) directly to the Office of Information and Regulatory

Affairs, OMB, Attention: Desk Officer for the Department of the Interior (OMB Control Number 1010-0104). Mail or hand-carry a copy of your comments to Sharron L. Gebhardt, Lead Regulatory Specialist, Minerals Management Service, Minerals Revenue Management, P.O. Box 25165, MS 302B2, Denver, Colorado 80225. If you use an overnight courier service, our courier address is Building 85, Room A-614, Denver Federal Center, Denver, Colorado 80225. You may also e-mail your comments to us at *mrmm.comments@mms.gov*. Include the title of the information collection and the OMB Control Number in the “Attention” line of your comment. Also include your name and return address. Submit electronic comments as an ASCII file avoiding the use of special characters and any form of encryption. If you do not receive a confirmation that we have received your e-mail, contact Ms. Gebhardt at (303) 231-3211.

**FOR FURTHER INFORMATION CONTACT:** Sharron L. Gebhardt, telephone (303) 231-3211, FAX (303) 231-3781, e-mail *Sharron.Gebhardt@mms.gov*. You may also contact Sharron Gebhardt to obtain at no cost a copy of the form and regulations that require the subject collection of information.

**SUPPLEMENTARY INFORMATION:**

*Title:* 30 CFR Part 206, Subpart E—Indian Gas, §§ 206.172, 206.173, and 206.176 (Form MMS-4410, Accounting for Comparison [Dual Accounting]).

*OMB Control Number:* 1010-0104.

*Bureau Form Number:* Form MMS-4410.

*Abstract:* The Secretary of the U.S. Department of the Interior is responsible for matters relevant to mineral resource development on Federal and Indian lands and the Outer Continental Shelf (OCS). The Secretary, under the Mineral Leasing Act (30

U.S.C. 1923) and the Outer Continental Shelf Lands Act (43 U.S.C. 1353), is responsible for managing the production of minerals from Federal and Indian lands and the OCS, collecting royalties from lessees who produce minerals, and distributing the funds collected in accordance with applicable laws.

The Secretary also has an Indian trust responsibility to manage Indian lands and seek advice and information from Indian beneficiaries. The MMS performs the royalty management functions and assists the Secretary in fulfilling the Department's Indian trust responsibility. The information collected is essential for the product valuation determination process.

Applicable citations pertaining to minerals on Indian lands include 25 U.S.C. 396d (Chapter 12 – Lease, Sale or Surrender of Allotted or Unallotted Lands), 25 U.S.C. 2103 (Indian Mineral Development Act of 1982), and Public Law 97-451—Jan. 12, 1983 (Federal Oil and Gas Royalty Management Act of 1982).

When a company or an individual enters into a lease to explore, develop, produce, and dispose of minerals from Federal or Indian lands, that company or individual agrees to pay the lessor a share (royalty) of the value received from production from the leased lands. The lease creates a business relationship between the lessor and the lessee. The lessee is required to report various kinds of information to the lessor relative to the disposition of the leased minerals. Such information is similar to data reported to private and public mineral interest owners and is generally available within the records of the lessee or others involved in developing, transporting, processing, purchasing, or selling of such minerals. The information collected includes data necessary to ensure that the royalties are paid appropriately.

The product valuation determination process is essential to ensuring that Indians receive payment on the proper value of the minerals being removed. Indian tribes and individual Indian mineral owners receive all royalties generated from their lands. The Indian tribal representatives have expressed concern that the Secretary properly ensures the correct royalty is received. Failure to collect the data described in this information collection could result in the undervaluation of leased minerals. Proprietary information submitted to MMS under this collection is protected.

Most Indian leases contain the requirement to perform accounting for comparison (dual accounting) for gas produced from the lease. According to 30 CFR 206.176, dual accounting is the greater of the following two values:

- (1) The value of gas prior to processing, less any applicable allowances, or
- (2) The combined value of residue gas and gas plant products resulting from processing the gas, less any applicable allowances, plus any drip condensate associated with the processed gas recovered downstream of the point of royalty settlement without resorting to processing, less applicable allowances.

On August 10, 1999, MMS published a final rule titled "Amendments to Gas Valuation Regulations for Indian Leases" (64 FR 43506) with an effective date of January 1, 2000. This regulation applies to all gas produced from Indian oil and gas leases, except leases on the Osage Indian Reservation. The intent of the rule is to ensure that Indian mineral lessors receive the maximum revenues from mineral resources on their land, consistent with the Secretary's trust responsibility and with lease terms. The rule requires lessees to elect to perform either actual dual accounting under 30 CFR 206.176, or the alternative methodology for dual accounting under 30 CFR 206.173.

We must collect the dual accounting election information on Form MMS-4410, Accounting for Comparison [Dual Accounting], to enforce dual accounting requirements in Indian lease terms and in our Indian gas valuation regulations.

#### Form MMS-4410

Lessees use Form MMS-4410 to certify that dual accounting is not required on an Indian lease and to make an election for actual or alternative dual accounting.

In this ICR, we are asking approval to continue using the Form MMS-4410 to clarify the lessee's justification for not performing dual accounting and for the lessee's separate election to use the actual or alternative dual accounting methodology.

#### Form MMS-4410, Part A, Certification for Not Performing Dual Accounting

Form MMS-4410, Part A, requires lessees to identify the MMS-designated areas where the leases are located and provide specific justification for not performing dual accounting. Part A is a one-time notification, until any changes occur in gas disposition. To assist the lessees in identifying the reason(s) for not performing dual accounting, Part A lists acceptable reasons including: (1) the lease terms do not require dual accounting; (2) none of the gas from the lease is ever processed; (3) gas has a Btu content of 1000 Btu's per cubic foot or less at lease's facility measurement point(s); (4) none of the gas from the lease is processed until after gas flows into a pipeline with an index located in an index zone; and (5) none of the gas from the lease is processed until after gas flows into a mainline pipeline not located in an index zone.

#### Form MMS-4410, Part B, Election to Perform Actual Dual Accounting or Alternative Dual Accounting

Effective January 2002, we collected elections to perform actual dual accounting or alternative dual accounting from lessees on Part B of Form MMS-4410. A lessee makes an election by checking either the actual or alternative dual accounting box for each MMS-designated area where its leases are located. Part B also includes the lessee's lease prefixes within each MMS-designated area to assist lessees in making the appropriate election. The election to perform actual or alternative dual accounting applies to all of a lessee's Indian leases in each MMS-designated area. The first election on Part B to use the alternative dual accounting is effective from the time of election through the end of the following calendar year. Thereafter, each election to use the alternative dual accounting methodology must remain in effect for 2 calendar years. However, lessees may return to the actual dual accounting methodology only at the beginning of the next election period or with written approval from MMS and the tribal lessors for tribal leases, and from MMS for Indian allotted leases in the MMS-designated area (30 CFR 206.173(a)).

*Frequency of Response:* On occasion.

*Estimated Number and Description of Respondents:* 50 lessees of Indian gas royalties.

*Estimated Annual Reporting and Recordkeeping "Hour" Burden:* 170 hours.

Since the previous renewal of this ICR, we have obtained more accurate estimates of the number of respondents and the time required to provide the information requested. We reviewed actual data from past years and obtained feedback from companies to project burden hours for future years. We require Part A of Form MMS-4410 when lessees certify that no dual accounting is required. Since the effective date of the Indian

gas rule (January 2000), MMS has received hundreds of certifications (Part A of Form MMS-4410). Because this certification is a one-time notification for each Indian lease, until any changes occur in gas disposition, MMS does not anticipate that in the future we will receive a significant number of additional certifications.

The MMS also requires lessees to submit Part B of Form MMS-4410 when lessees make an initial election for dual accounting or when lessees want to change their election for dual accounting. The MMS does not anticipate that in the future we will receive a significant number of additional initial dual accounting elections or changes to current elections.

We have adjusted the burden hours accordingly. There are approximately 370 lessees of Indian gas royalties; however, we expect responses from only 50 lessees because most lessees have either previously submitted a certification that no dual accounting is required or lessees have previously made their initial dual accounting election. Lessees may change their alternative dual accounting election only after 2 calendar years on Form MMS-4410. Therefore, we expect approximately 60 responses from 50 lessees of Indian gas royalties and estimate that the total annual burden is 170 reporting hours based on MMS's historical data, and taking into consideration customer feedback.

The following chart shows the estimated burden hours by CFR section and paragraph:

## RESPONDENTS' ESTIMATED ANNUAL BURDEN HOURS

30 CFR Section	Reporting or Recordkeeping Requirement	Burden Hours Per Response	Annual Number of Responses	Annual Burden Hours
206.172(b)(1)(ii)	<b>How do I value gas produced from leases in an index zone?</b> * * * (b) <i>Valuing residue gas and gas before processing.</i> (1) * * * (ii) Gas production that you certify on Form MMS-4410, * * * is not processed before it flows into a pipeline with an index but which may be processed later * * *. <b>(Part A of Form MMS-4410)</b>	4	25	100
206.173(a)(1)	<b>How do I calculate the alternative methodology for dual accounting?</b> (a) <i>Electing a dual accounting method.</i> (1) * * * You may elect to perform the dual accounting calculation according to either § 206.176(a) (called actual dual accounting), or paragraph (b) of this section (called the alternative methodology for dual accounting). <b>(Part B of Form MMS-4410)</b>	2	35	70
206.173(a)(2)	<b>How do I calculate the alternative methodology for dual accounting?</b> (a) <i>Electing a dual accounting method.</i> * * * (2) You must make a separate election to use the alternative methodology for dual accounting for your Indian leases in each MMS-designated area. * * * <b>(Part B of Form MMS-4410)</b>	Burden hours covered under § 206.173(a)(1).		0
206.176(b)	<b>How do I perform accounting for comparison?</b> * * * (b) If you are required to account for comparison, you may elect to use the alternative dual accounting methodology provided for in § 206.173 instead of the provisions in paragraph (a) of this section. <b>(Part B of Form MMS-4410)</b>	Burden hours covered under § 206.173(a)(1).		0
206.176(c)	<b>How do I perform accounting for comparison?</b> * * * (c) * * * If you do not perform dual accounting, you must certify to MMS that gas flows into such a pipeline before it is processed. <b>(Part A of Form MMS-4410)</b>	Burden hours covered under § 206.172(b)(1)(ii).		0
<b>TOTALS</b>			<b>60</b>	<b>170</b>

*Estimated Annual Reporting and Recordkeeping “Non-hour” Cost Burden:* We have identified no “non-hour” cost burdens.

*Public Disclosure Statement:* The PRA (44 U.S.C. 3501 *et seq.*) provides that an agency may not conduct or sponsor, and a person is not required to respond to, a



collection of information unless it displays a currently valid OMB Control Number.

*Comments:* Section 3506(c)(2)(A) of the PRA requires each agency “\* \* \* to provide notice \* \* \* and otherwise consult with members of the public and affected agencies concerning each proposed collection of information \* \* \*.” Agencies must specifically solicit comments to: (a) evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency’s estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

To comply with the public consultation process, we published a notice in the *Federal Register* on June 10, 2004 (69 FR 32606), announcing that we would submit this ICR to OMB for approval. The notice provided the required 60-day comment period. We received no comments in response to the notice.

If you wish to comment in response to this notice, you may send your comments to the offices listed under the ADDRESSES section of this notice. The OMB has up to 60 days to approve or disapprove the information collection but may respond after 30 days. Therefore, to ensure maximum consideration, OMB should receive public comments by [INSERT DATE 30 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER].

*Public Comment Policy:* We will post all comments in response to this notice on our website at [http://www.mrm.mms.gov/Laws\\_R\\_D/InfoColl/InfoColCom.htm](http://www.mrm.mms.gov/Laws_R_D/InfoColl/InfoColCom.htm). We will also make copies of the comments available for public review, including names and addresses

of respondents, during regular business hours at our offices in Lakewood, Colorado.

Upon request, we will withhold an individual respondent's home address from the public record, as allowable by law. There also may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you request that we withhold your name and/or address, state your request prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

*MMS Information Collection Clearance Officer: Arlene Bajusz (202) 208-7744.*

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Date

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Lucy Querques Denett  
Associate Director for  
Minerals Revenue Management